SERVED: February 13, 2002

NTSB Order No. EA-4950

UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24) on the 13th day of February, 2002

JANE F. GARVEY, Administrator, Federal Aviation Administration,

Complainant,

RICHARD M. LOGAN,

v.

Respondent.

Docket SE-16019

ORDER DENYING STAY

Respondent has requested a stay of NTSB Order EA-4935, served January 18, 2002, pending disposition of a petition for review of that order to be filed in the U.S. Court of Appeals. The Administrator opposes the request. The request will be denied.

The Board ordinarily grants stays in aviation enforcement cases in which a suspension of 180 days or less has been affirmed. That policy reflects a judgment that aviation safety will not be unduly jeopardized by the temporary postponement of sanction in less serious cases while a court reviews the validity of the Board's decision.

¹In EA-4935, the Board affirmed a 30-day suspension of respondent's pilot and flight instructor certificates for his refusal to permit the Administrator's investigators to inspect certain records related to his exercise of those certificates following his involvement in a flight check that ended with a gear-up landing. The suspension will continue in effect indefinitely if respondent does not produce the requested records for inspection before or during the 30-day term.

Although this case resulted in a suspension that may run no more than 30 days, it involves more than a violation based on an airman's past conduct. It involves the Administrator's clear and, to date, defied authority to inspect certain records pursuant to a request that has not been shown to be unreasonable. A stay in such circumstances would thus not simply delay service of a suspension which in all likelihood will be upheld, given respondent's failure to establish any meritorious justification for not permitting the inspection, it would allow him to continue to thwart the Administrator's necessary and appropriate efforts to satisfy herself that respondent's qualifications and competence were not negatively implicated by the landing incident which gave rise to the inspection request. A stay would not, in other words, be consistent with the public interest in air safety.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for stay is denied.

Ronald S. Battocchi General Counsel

²Respondent did not seek reconsideration of NTSB Order EA-4935.